



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

JRE

Docket No: 181-00

11 October 2000

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 October 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you underwent a pre-separation physical examination on 23 September 1997, and were found qualified for separation. You indicated you were in good health at that time, and not taking any medication. You were released from active duty on 1 December 1997.

The Board noted that as your active duty commitment had expired, there was no authority to retain you on active duty, absent your consent. The fact that the Department of Veterans Affairs (VA) awarded you disability ratings effective the day following your release from active duty is not probative or error or injustice in your case. In this regard, the Board noted that the VA assigns ratings to all conditions it classifies as "service connected", without regard to the issue of fitness for military duty, and often rates conditions that produce no impairment of earning capacity, such as your history of gastroenteritis. The military departments may assign disability ratings only in those cases where the service member has been found unfit to perform the duties of his office, grade, rank or rating by reason of physical disability. There is no indication in your service records that you were

unfit for duty at the time of your discharge. The conditions described in your VA initial rating decision appear to have been of minimal severity at that time. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director